



State of Nevada

Dept. of Conservation & Natural Resources
State Environmental Commission

901 South Stewart Street, Suite 4001 -- Carson City, Nevada 89701-5249



Public Notice of Hearing for the Adoption of Regulations

The State Environmental Commission (SEC) has scheduled a regulatory hearing for Wednesday September 06, 2006. The hearing will be held at 9:30 a.m. at the Nevada Department of Wildlife's Conference Room A, 1100 Valley Road, Reno, Nevada.

The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of the following regulatory petitions and related SEC business. If a person that may be directly affected by a proposed action does not appear and request time to make an oral presentation at the above referenced hearing, the SEC may proceed immediately to act upon any of the following regulatory petitions or other written submissions described in this notice.

The following items will be discussed and acted upon but may be taken in different order to accommodate the interest and time of the persons attending.

Water Quality Planning

(1) Regulation R158-06: Standards for toxic materials applicable to designated waters: This regulation proposes certain revisions to the water quality standards related to the aquatic life beneficial use for the inorganic chemicals contained in NAC 445A.144, "Standards for Toxic Materials Applicable to Designated Waters". Water quality standards contained in NAC 445A.144, which are referred to as the Toxics Standards, were last amended in 1995. This regulation presents the proposed revisions to update only the aquatic life water quality standards for just the inorganic chemicals prescribed in NAC 445A.144. These proposed revisions are based on new or revised water quality criteria that have been recommended by the U.S. Environmental Protection Agency (EPA) for protection of aquatic life. No changes to the other water quality standards contained in NAC 445A.144 are proposed at this time. The Division of Environmental Protection will update the inorganic chemicals standards for municipal and domestic supply, irrigation, and watering of livestock beneficial uses, and the organic chemicals standards at a later date.

During the public review process of proposed regulation changes, stakeholders and entities who may be affected by the proposed changes are afforded the opportunity to address their individual concerns and participate in the regulatory adoption process. Proposed changes to the aquatic life water quality standards would not be effective until acted upon by the State Environmental Commission (SEC) and EPA approval. Any changes are then added to the Nevada Administrative Code (NAC). Any new or revised standards for the toxic chemicals would not be incorporated as permit effluent limits until the proposed standards are incorporated into the NAC regulations. The NDEP Director can require existing effluent permit limits to be updated when the standards limits

become effective; however, past practice has been to adjust the effluent limits at the time of permit renewal.

This regulation will not have an immediate or long-term adverse effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies. The regulation is also no more stringent than what is established by federal law and it does not address fees. (SEC reference # P2006-14)

(2) Regulation R159-06: Colorado River Salinity Standards: Under section 303 of the Clean Water Act and 40 CFR 131, States have responsibility for setting, reviewing and revising water quality standards. This regulation proposes changes to the Nevada Administrative Code (NAC) referencing the Colorado Salinity Standards, contained in the NAC 445A.143, and changes to the footnotes for Lake Mead, NAC 445A.195 and Inner Las Vegas Bay NAC 445A.197. No changes to the salinity criteria are proposed; only administrative changes would be made to NAC 445A.143, 195, and 197.

This regulation will not have an immediate or long-term adverse effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies. The regulation is also no more stringent than what is established by federal law and it does not address fees. (SEC reference # P2006-13)

Mining Regulation & Reclamation

(3) Regulation R138-06: Clarification of Certain Fee Categories for Mining Facility Permits: This regulation amends NAC 445A.232. The regulation provides clarification in the description for several fee categories of mining facility permits. As way of background, Nevada Revised Statutes (NRS) 445A.425 establishes authority to adopt regulations to maintain the quality of the waters of the State pursuant to the State Water Pollution Control Law and NRS 445A.430 establishes specific authority regarding fees for water pollution control permits. Water Pollution Control Permits for mining operations are categorized by the specific type of operation and the capacity of the submitted facility designs. The current fee categories describe dewatering of a mine by the gallons of process water discharged or by the tonnage the mine facilities chemically process.

This proposed regulation changes the language from discharge of process water to discharge of dewatering water; it also clarifies the tonnage categories by the tonnage the facility is designed to process.

This regulation will not have an immediate or long-term adverse effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies and it does not material alter fees. (SEC reference # P2006-15)

Bureau of Waste Management

(4) Regulation R179-05: Waste Landfill Cover Requirements: This regulation addresses “cover requirements” of compacted solid waste at certain landfills in Nevada. The regulation would amend section 444.688 of the Nevada Administrative Code (NAC). The requested change will reverse an existing requirement that allows certain landfills in Nevada to operate for up to six days without applying cover soil to exposed waste.

As way of background, Nevada has received approval from the Environmental Protection Agency (US EPA) to administer federal municipal solid waste landfill (MSWLF) regulations contained in 40 CFR Part 258. Under the approved program, the Clark and Washoe County Health Districts administer the landfill regulation within their areas of jurisdiction, while the Nevada Division of Environmental Protection does so in all other areas of the State.

The federal MSWLF regulations require municipal landfills to cover disposed solid waste at the end of each operating day (40 CFR § 258.21). Certain MSWLFs in Nevada have claimed to operate “around the clock”, suggesting that for them there is no “end of each operating day” that would trigger the daily cover requirement.

In recognition of the potential need to receive waste around the clock at landfills that serve the “24-hour” urban areas of Las Vegas and Reno, in 1998 the State Environmental Commission adopted revisions to NAC 444.688 that allowed such landfills to operate for up to 6 days prior to applying cover material. To make this allowance, the term “operating day” at such landfills was defined to include a period of time up to six days long. The US EPA has since notified the Division that this language is not consistent with the federal criteria.

This regulation would therefore restore conformance with the federal landfill criteria while retaining flexibility for landfills to operate continuously. This regulation would allow landfills to avoid the requirement of a daily cover if they have equipment “working the face” 24 hours a day.

This regulation will not have an immediate or long-term adverse effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies and the regulations does not address fees (SEC reference # P2005-10).

Bureaus of Air Quality Planning & Air Pollution Control

(5) Regulation R139-06: Air Quality Reforms - New Source Review: This regulation would amend NAC 445B.001-.3497 to comply with decisions by the U.S. Court of Appeals for the District of Columbia Circuit (the Court) to vacate certain revisions made to the federal New Source Review and Prevention of Significant Deterioration rule in 2002 (NSR Reforms).

NDEP integrated those federal revisions into State regulation in 2004. In 2005, the Court ruled that EPA had misinterpreted the Clean Air Act in promulgating the "Clean Unit" (CU) and "Pollution Control Project" (PCP) provisions of the 2002 NSR Reforms. Accordingly, this proposed regulation would remove:

- 1) Application requirements for CUs and PCPs;
- 2) Application processing timelines for CUs and PCPs;
- 3) Permit content requirements for CUs and PCPs; and
- 4) The fee structure that covered the administrative costs for CUs and PCPs.

This regulation will not have an immediate or long-term adverse effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies. The regulation is also no more stringent than what is established by federal law and it does not address fees. (SEC reference # P2006-09)

(5) Regulation R151-06: Air Pollution Control Permitting Provisions:

The NDEP is proposing to amend several sections in the permitting provisions of NAC 445B. Most of the amendments are in response to U.S. EPA comments on the approvability of the agency's air pollution control permitting provisions into the applicable State Implementation Plan (ASIP). The amendments clarify and streamline the permitting regulations; add expiration dates for Class II and Class III construction permits; and make several technical corrections. They also update NAC 445B.221, which adopts federal rules by reference.

This regulation will not have an immediate or long-term adverse effect on business or the public, there is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies. The regulation is also no more stringent than what is established by federal law and it will not increase fees. (SEC reference # P2006-16)

(7) Regulation R154-06: Air Pollution Control Permitting Fees: This regulation proposes to amend the fee structure in NAC 445B.327 to make the revenue generated more commensurate with the expense of administering the Division of Environmental Protection's air quality control program.

As way of background, the air pollution control program is predominantly a fee based program, receiving no general fund support. The operating permits program fees have not been significantly increased in ten years, whereas the size and scope of program responsibilities have markedly expanded. Furthermore, the Southern California Edison's Mohave Generating Station (Mohave), which was a significant source of revenue in the past, has shut down, and this has been compounded by a steady decline in federal grant funding from US. EPA. Accordingly, it is necessary to increase operating permit fees to pay the expenses of implementing the Division's air quality control program. The specific fee increases proposed in this regulation include the following elements.

The regulation would increase the application fee for a Class II general permit and a surface area disturbance from \$400 to \$500; and clarify that the first year's annual maintenance fee for a "new source" is included in the application fee.

For annual fees based on emissions, the regulation would increase the fee for Class I sources to \$16 per ton for each regulated pollutant; repeal the fee for Class II sources, and add an inflationary adjustment factor of 2 percent compounded annually.

For annual fees based on maintenance, the regulation would increase the fee for all Class I sources, adding a tiered structure; adding a 4th tier to the Class II fee structure; increasing the fee from \$250 to \$500 for Class II sources with a potential to emit less than 25 tons per year; increasing the fee for surface area disturbances, (adding a tiered structure based on acreage permitted); and adding an inflationary adjustment factor of 2 percent compounded annually. In addition to these changes the regulation would provide "sources" with an opportunity to request a pre-application review by the agency for a fee.

This regulation will have an economic effect on the regulated industry; however it will not have an immediate or long-term adverse effect on the public. There is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies. The regulation is also no more stringent than what is established by federal law.

As noted above, the regulation would increase fees. The air permitting program's existing fee structure has been generating approximately \$1,350,000 to 1,400,000, annually. The closure of the Mohave station (as notice above) will create an annual loss to the agency of approximately \$366,000, and the anticipated cutback in federal funding will further reduce annual income by approximately \$120,000. The proposed fee structure in the regulation is projected to generate approximately \$1,927,000. Together with application fees, which are basically being left unchanged, total revenue from fees under the new structure will be approximately \$2,377,000 annually. The revenue collected will be used to administer the growing air pollution permit program and to help fund an Emissions Review and Auditing Branch in the Division's Bureau of Air Pollution Control. (SEC reference # P2006-10)

(8) Regulation R162-06: Clean Air Mercury Rule (CAMR): This regulation would amend NAC 445B.001 to 445B.3497 by adding a new program to control air emissions of mercury from coal-fired electric utility steam generating units (EGUs). This action is in response to a federal requirement for states to control annual mercury emissions from coal-fired power plants.

In May 2005, the U.S. Environmental Protection Agency (EPA) issued the Clean Air Mercury Rule (CAMR). Under CAMR each state received an annual "mercury emissions" budget from coal-fired EGUs; a nationwide cap was set as well. Nevada was allocated a budget of 570 pounds of mercury per year from 2010 to 2017. From 2018 on, Nevada's budget is 224 pounds per year.

The program developed by the Nevada Division of Environmental Protection (NDEP) that is embodied in this regulation proposes to modify the EPA "Cap and Trade"

program from CAMR and tailor it to the unique needs of the state. The Nevada CAMR Program will require power plants with coal-fired EGUs to obtain a mercury operating permit to construct. Through the permitting process and beginning in 2010, NDEP will allocate annual mercury emission allowances to existing power plants based on projected actual emissions. Remaining annual allowances from the state budget will be maintained in a pool to be administered by NDEP. The pool will be used for new power plants, for incentive programs and by NDEP to support program needs or allowances that may be retired.

The major objective of Nevada's CAMR Program is to encourage mercury reductions at existing facilities and encourage new facilities to install "Low Emitting Units" or "Integrated Gasification Combined Cycle" units. This is accomplished by offering bonus emission allowances to facilities that install equipment or systems that reduce emissions below their allowance.

This new regulation will have an economic impact on industry. The regulation will affect new and existing coal-fired electric utility steam generating units (EGUs) at power plants in Nevada. Power plants with coal-fired EGUs will be required to install and operate continuous emissions monitoring systems, and if their EGUs do not meet their mercury emission allowance, they may be required to put on additional controls. These companies will also be subject to the Nevada CAMR permitting program and applicable fees. The proposed regulation may also have an economic effect on electricity customers (i.e. the public) if the affected industry elects to pass on the costs of monitoring and installing additional emissions control systems.

The proposed regulation does not overlap or duplicate any regulations of other state or government agencies and it is no more stringent than what is established by federal law. The regulation does address fees for a new or revised CAMR operating permit to construct in the amount of \$2000; an annual maintenance fee is also proposed for each coal-fired EGU; all fees collected will be used to support the program. (SEC reference # P2006-18)

(9) Regulation P2006-19: Mercury Storage: This temporary regulatory petition would amend the Chemical Accident Prevention Program (CAPP) regulations NAC 459.9533. The proposed amendment would establish measures for the prevention of an accidental release to the environment from the storage and handling of mercury at storage facilities in Nevada. Mercury would be added to the list of highly hazardous substances in NAC 459.9533 at a threshold quantity of 200,000 pounds or 100 tons.

While this regulation would not have an immediate or long-term adverse effect on business or the public, there would be a minimal additional cost to the agency for enforcement of the regulation. The regulation would not overlap or duplicate any regulations of other state, federal, or local agencies. The regulation is more stringent than federal law, however, and it would result in nominal new fees for facilities storing "large quantities" of mercury (SEC reference # P2006-19).

Additional Information:

Persons wishing to comment on the proposed actions of the State Environmental Commission (SEC) may appear at the scheduled public hearing or may address their

comments, data, views, or arguments in written form to: State Environmental Commission, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249. The SEC must receive written submissions at least five days before the scheduled public hearing. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the SEC may proceed immediately to act upon any written submissions.

Members of the public can inspect copies of the regulations to be adopted at the State Library and Archives in Carson City (100 Stewart Street), and at the offices of the Division of Environmental Protection in Carson City and Las Vegas. The Carson City office is located at 901 South Stewart Street, Suite 4001 and the Las Vegas office is located at 1771 E. Flamingo, Suite 121-A.

In addition, copies of this public notice and the accompanying regulations have been deposited electronically at major library branches in each county in Nevada. This notice and the text of the proposed regulations are available on the State Environmental Commission's website at <http://www.sec.nv.gov/>. All of the proposed regulations denoted in this notice, including previous drafts are posted on Legislative Counsel Bureau's website at <http://www.leq.state.nv.us/Register/>.

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of John B. Walker, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada 89701-5249, facsimile (775) 687-5856, or by calling (775) 687-9308, no later than 5:00 p.m. on August 28, 2006.

As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, this public notice has been posted at the following locations: the Nevada Department of Wildlife building in Reno, the Grant Sawyer Office Building in Las Vegas, and the Offices of the Division of Environmental Protection in Carson City and Las Vegas. Copies of this notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the SEC, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

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STATE OF NEVADA
COUNTY OF WASHOE

ss: Julia Ketcham

Being first duly sworn, deposes and says:
That as the legal clerk of the RENO
GAZETTE-JOURNAL, a daily newspaper
published in Reno, Washoe County,
State of Nevada, that the notice:

Hearing Regulations

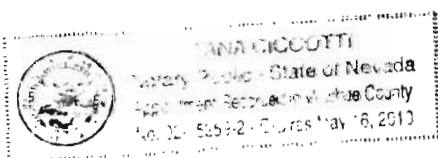
has published in each regular and entire
issue of said newspaper on the following
dates to wit:

Aug. 14, 21, 28, 2006

Signed:

AUG 30 2006

Notary Public



PROOF OF PUBLICATION

STATE ENVIRONMENTAL COMMISSION - NOTICE OF HEARING FOR THE ADOPTION OF REGULATIONS

The State Environmental Commission (SEC) will hold a public hearing at 9:30 a.m. on September 6, 2006 at the Nevada Dept. of Wildlife Conference Room A, 1100 Valley Road, Reno, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of the following regulatory petitions. The petitions will be discussed and acted upon out may be taken in different order to accommodate the interest and time of the persons attending.

(1) Regulation R158-06: Standards for toxic materials applicable to designated waters: This regulation proposes certain revisions to the water quality standards related to the aquatic life beneficial use for the inorganic chemicals contained in NAC 445A.144, "Standards for Toxic Materials Applicable to Designated Waters". Water quality standards contained in NAC 445A.144, which are referred to as the Toxics Standards, were last amended in 1995. This regulation presents the proposed revisions to update only the aquatic life water quality standards for just the inorganic chemicals prescribed in NAC 445A.144. These proposed revisions are based on new or revised water quality criteria that have been recommended by the U.S. Environmental Protection Agency (EPA) for protection of aquatic life. No changes to the other water quality standards contained in NAC 445A.144 are proposed at this time. The Division of Environmental Protection will update the inorganic chemicals standards for municipal and domestic supply, irrigation, and watering of livestock beneficial uses, and the organic chemicals standards at a later date.

(2) Regulation R159-06: Colorado River Salinity Standards: Under section 303 of the Clean Water Act and 40 CFR 131, States have responsibility for setting, reviewing and revising water quality standards. This regulation proposes changes to the Nevada Administrative Code (NAC) referencing the Colorado Salinity Standards, contained in the NAC 445A.143, and changes to the footnotes for Lake Mead, NAC 445A.195 and Inner Las Vegas Bay NAC 445A.197. No changes to the salinity criteria are proposed; only administrative changes would be made to NAC 445A.143, 195, and 197.

(3) Regulation R160-06: Class Waters: Under section 303 of the Clean Water Act and 40 CFR 131, States have responsibility for setting, reviewing and revising water quality standards. This regulation proposes changes to the water quality standards for the Class Waters contained in the Nevada Administrative Code (NAC). The regulation makes two categories of changes to the NAC. It makes adjustments and additions to the Class Waters (445A.124 through 445A.127), and it allows a reorganization of Water Quality Standards Tables (NAC 445A.124 through 127 and 445A.146 through 225). The class waters are being updated to reflect current EPA recommended criteria for ammonia and Escherichia coli. It worth mentioning that under the current class standards structure, any action necessary to address standards criteria on any individual class waterbody affects all other waters within the same class. Reformulating the class waters into the proposed designated waterbody structure will allow more flexibility to address setting of appropriate water quality standards.

(4) Regulation R141-06: Spent Ore: This regulation amends NAC 445A by revises mine operator responsibility with respect to spent ore. The regulation also clarifies some acceptable methods to demonstrate stabilization of spent ore. The existing language in the regulation does not reflect the changes, advancements in the very technical field of spent ore stabilization that have occurred since the regulation was promulgated. The proposed changes are only designed to clarify operator responsibilities and stabilization methods, options for spent ore.

(5) structure based on the structure of certain fee structure for Mining Facility Permits: This regulation amends NAC 445A.149 by adding an additional adjustment factor of 2 percent component to request a pre-application review by the agency for a fee.

This regulation will have an economic effect on the regulated industry; however it will not have an immediate or long-term adverse effect on the public. There is no additional cost to the agency for enforcement of the proposed regulation, and the regulation does not overlap or duplicate any regulations of other state, federal, or local agencies. The regulation is also no more stringent than what is established by federal law.

As noted above, the regulation would increase fees. The air permitting program's existing fee structure has been generating approximately \$1,350,000 to \$1,400,000 annually. The closure of the Moravee plant (as noted above) will create an annual loss to the agency of approximately \$366,000, and the anticipated cutback in federal funding will further reduce annual income by approximately \$150,000. The proposed fee structure in the regulation is projected to generate approximately \$1,927,000. Together with application fees, which are basically being left unchanged, total revenue from fees under the new structure will be approximately \$2,377,000 annually. The revenue collected will be used to administer the growing air pollution permit program and to help fund an Emissions Review and Auditing Branch in the Division's Bureau of Air Pollution Control.

(10) Regulation R162-06: Clean Air Mercury Rule (CAMR): This regulation would amend NAC 445B.049 by adding a new program to control air emissions of mercury from coal-fired electric utility steam generating units (EGUs). This action is in response to a federal requirement for states to control annual mercury emissions from coal-fired power plants. In May 2005, the U.S. EPA issued the Clean Air Mercury Rule (CAMR). Under CAMR each state received an annual "mercury emissions" budget from coal-fired EGUs. A nationwide cap will be set as well. Nevada was allocated a budget of 277 pounds of mercury per year from 2010 to 2017. From 2008 on, Nevada's budget is 224 pounds per year.

The program is funded by the Nevada Division of Environmental Protection (NDEP) and administered by this regulation. The purpose of the program is to control mercury emissions from coal-fired EGUs to protect the health of the state. The Nevada CAMR Program will require power plants with coal-fired EGUs to obtain a mercury spending permit to construct. Through the permitting process and beginning in 2008, NDEP will allocate annual mercury emission allowances to existing power plants based on projected actual emissions. Remaining annual allowances from the state budget will be maintained in a pool to be administered by NDEP. The pool will be used for new power plants for incentive programs and by NDEP to support program needs or allowances that may be needed. The major objective of Nevada's CAMR Program is to encourage mercury reduction in power plants.

AFFE DISTRICT COURT
Clark County, Nevada

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK) SS:

Donna Stark, being 1st duly sworn, deposes and says:

That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for,

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was continuously published in said Las Vegas Review Journal and/or Las Vegas Sun in 3
edition(s) of said newspaper issued from 08/15/2006 to 08/29/2006, on
the following days: AUG. 15, 22, 29, 2006

Signed: _____

Donna Stark

SUBSCRIBED AND SWORN BEFORE ME THIS THE _____

31st

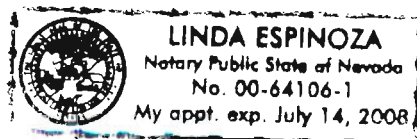
day of _____

August

2006

Linda Espinoza

Notary Public





State of Nevada

Dept. of Conservation & Natural Resources
State Environmental Commission

901 South Stewart Street, Suite 4001 -- Carson City, Nevada 89701-5249



Meeting Agenda -- September 06, 2006

The State Environmental Commission (SEC) will hold a public hearing at 9:30 a.m. on September 6, 2006 at the Nevada Dept. of Wildlife Conference Room A, 1100 Valley Road, Reno, Nevada, 89512.

As required by the provisions of chapters 233B and 241 of Nevada Revised Statutes, this meeting agenda has been posted at the following locations: the Nevada Department of Wildlife in Reno, the Grant Sawyer Office Building in Las Vegas, the Nevada State Library in Carson City and at the Offices of the Division of Environmental Protection in Carson City and Las Vegas. Copies of this agenda and the proposed regulations noted below were made available to all public libraries throughout the state as well as individuals on the SEC electronic mailing lists. The public notice for this hearing was also published on August 15 and 22, and 29, 2006 in the Las Vegas Review Journal and Reno Gazette Journal newspapers.

The following items will be discussed and acted upon but may be taken in different order to accommodate the interests and time of the persons attending.

- I. **Approval of minutes from the March 08, 2006 hearing * ACTION**
- II. **Settlement Agreements - Air Quality Violations *ACTION by Consent Calendar:**

Company information

- 1. Barrick Goldstrike Mines, Inc.
- 2. Builders Choice, Inc.
- 3. Carson City Renewable Resources, Inc.
- 4. Dayton Materials, LLC
- 5. Grant Smith Aggregate, Inc.
- 6. Mercer-Fraser, Inc.
- 7. Mountain Falls, LLC
- 8. Nevada Cement Company
- 9. Nevada Land and Ranches
- 10. Road & Highway Builders
- 11. Vanderbilt Minerals Corporation
- 12. Winnemucca Farms, Inc.

- III. **Arsenic Rule Exemptions * ACTION by Consent Calendar:** Pursuant to the federal Safe Drinking Water Act and Nevada Revised Statute (NRS) 445A.935, the Commission may grant exemptions from the regulations of the Commission.

The following public water systems have submitted arsenic exemption applications. These applications have been reviewed and are being recommended for approval by the Nevada Division of Environmental Protection.

1	Nv0015	Carson City Water Division
2	Nv0046	Country Club Estates
3	Nv2541	Nas Centroid Ew Range
4	Nv0052	Ok Mobile Home Park
5	Nv0849	Pine Grove Utility Trust
6	Nv0055	South Maine Mhp
7	Nv0102	Cottonwood Cove (Nps)
8	Nv0109	Equestrian Estates Co Op Water Assoc
9	Nv0160	Moapa Valley Water District
10	Nv0219	Searchlight Water Company
11	Nv0167	Virgin Valley Water District
12	Nv2216	East Valley Water System
13	Nv0066	Gardnerville Ranchos Gid
14	Nv0355	Indian Hills Gid
15	Nv0887	Sunrise Estates
16	Nv0070	Topaz Lodge Water Co Inc
17	Nv0036	Spring Creek Utilities (Res)
18	Nv5027	Spring Creek Mhp
19	Nv2092	Newmont Gold Mill 1
20	Nv0072	Goldfield Town Water
21	Nv5069	Humboldt Conservation Camp Ndoc
22	Nv2528	Turquoise Ridge Joint Venture
23	Nv0013	Caliente Public Utilities
24	Nv0813	Churchill Ranchos Estates
25	Nv0361	Crystal Clear Water Company
26	Nv2595	Silver Springs Conservation Camp Ndop
27	Nv0223	Silver Springs Mutual Water Company
28	Nv0255	City Of Yerington
29	Nv0009	Beatty Water And Sanitation District
30	Nv0237	Tonopah Public Utilities
31	Nv0879	Alcoa Mill Products
32	Nv0896	Bristlecone Family Resources
33	Nv0193	Crystal Tp
34	Nv1085	Desert Springs Utility Company
35	Nv1086	Sky Ranch Water Service Corporation
36	Nv3000	Verdi School

IV. Regulatory Petitions * ACTION

Water Regulations

(1) **Regulation R158-06:** Standards for toxic materials applicable to designated waters:

(2) **Regulation R159-06:** Colorado River Salinity Standards:

Mining Regulations

(3) Regulation R138-06: Clarification of Certain Fee Categories for Mining Facility Permits:

Waste Management Regulation

(4) Regulation R179-05: Waste Landfill Cover Requirements:

Air Pollution Control Regulations

(5) Regulation R139-06: Air Quality Reforms - New Source Review:

(6) Regulation R151-06: Air Pollution Control Permitting Provisions:

(7) Regulation R154-06: Air Pollution Control Permitting Fees:

(8) Regulation R162-06: Clean Air Mercury Rule

(9) Regulation P2006-19: Mercury Storage

V. Briefing to Commission – NRS 233B, 127(4) NDEP Administrator & Mercury Air Emission Permitting Program for precious metal mining facilities in Nevada.

VI. General Public Comment (for non agenda items) – In consideration of others, who may also wish to provide public comment, please avoid repetition and limit your comments to no more than five (5) minutes.

VII. Set Next Meeting Date – November 06 / January 07 (time period)

Meeting Information: Copies of the proposed regulations may be obtained by calling the Executive Secretary, John Walker at (775) 687-9308. The public notice and the text of the proposed regulations are also available on the State Environmental Commission website at: <http://www.sec.nv.gov/index.htm> and the Legislative Counsel Bureau's website at: <http://www.leg.state.nv.us/Register/>

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify, in writing, the Nevada State Environmental Commission, in care of John B. Walker, Executive Secretary, 901 South Stewart Street, Suite 4001, Carson City, Nevada, 89701-5249, facsimile (775) 687-5856, or by calling (775) 687-9308, no later than 5:00 p.m. on August 28, 2006.

STATE ENVIRONMENTAL COMMISSION (SEC)

Meeting of September 6, 2006

Dept. of Wildlife Building
1100 Valley Road, Reno, Nevada

Members Present:

Alan Coyner, Vice Chairman
Pete Anderson
Lewis Dodgion
Don Henderson
Doug Hunt
Ira Rackley
Harry Shull
M. Frances Sponer
Tracy Taylor

Members Absent:

Melvin Close, Chairman
Stephanne Zimmerman

SEC Staff Present:

David Newton, Dep. Attny. General
John Walker, Executive Secretary
Robert Pearson, Recording Sectry.

(Commission Vice Chairman Alan Coyner served as Chairman of the meeting and is hereafter referred to as 'Chairman Coyner.')

Chairman Coyner called the meeting to order at 9:30 a.m. and noted that the meeting had been noticed correctly. He acknowledged the long service of former Commissioners Hugh Ricci and Terry Crawforth, stating that they had both done a great job for the Commission and wishing them well in their retirements. He noted the absence of Commission Chairman Mel Close, whose wife had had surgery on the previous day, and wished for a speedy recovery for her. He welcomed the two new Commissioners, Tracy Taylor the new State Engineer, replacing Hugh Ricci, and Doug Hunt, Acting Director for Dept. of Wildlife, replacing Terry Crawforth. He also welcomed Robert Pearson as the new SEC Recording Secretary, replacing Nan Paulson, and thanked Ms. Paulson for her service.

Chairman Coyner noted that the Commission would be considering the Agenda Items for Settlement Agreements for Air Quality Violations and Arsenic Rule Exemptions by consent, unless there was someone present to specifically address one of the items, in which case that item would be considered separately. He emphasized that the Arsenic Rule Exemptions would only address that particular subject and that any other water system matters were outside of the purview of the Commission.

He noted that Regulatory Petition R179-05, Waste Landfill Cover Requirements (Item 4 on the petition list), was being pulled from the agenda and would not be taken up at this meeting.

Pages 2-32
intentionally
omitted.

grapples with these same questions about inflation. He said that automatic increases had been a concern and had come before the Commission before, but that he approved of the Director's ability to cancel the increases if economic conditions warranted it. Mr. Elges noted that industry was fully in favor of the inflation-adjustment approach as opposed to the same fees for years, followed by big jump.

Commissioner Sponer asked about the increase in the dollar-per-ton emissions rate. Mr. Elges clarified that the inflation adjustment applied to the \$16 per ton emission rate, and also to the maintenance fee as well, so there was uniformity among the increases.

When there were no further questions from the Commission, Chairman Coyner asked for public comment; one member of the public had filled out a speaker request but said from the audience that he did not need to speak. There were no further public comments and Chairman Coyner commended Mr. Elges for his preparation, noting that industry was not complaining about the fees. He asked the Commission for any further comment, or a motion.

Motion – Commissioner Shull moved that the Commission approve Regulation 154-06 as presented, and the motion was seconded by Commissioner Rackley. Without further discussion a vote was taken, which was unanimously in favor.

Chairman Coyner announced a 10-minute break.

The Commission reconvened at 3:00 p.m. Chairman Coyner moved down the agenda to Item (8) on the petition list, R162-06, the Clean Air Mercury Rule.

(8) Regulation R162-06: Clean Air Mercury Rule (CAMR):

Mike Elges presented the petition to the Commission. The following are his prepared remarks:

(BEGIN PREPARED REMARKS BY MIKE ELGES)

Mr. Chairman, members of the commission, for the record, I'm Mike Elges, Chief of the Bureau of Air Pollution Control. I'm here today to provide a summary of proposed changes to the Air Quality regulations that will incorporate the federal Clean Air Mercury Rule as can be found in Petition number R162-06. I had not planned to do a complete line-by-line run through of the proposed provisions but I can do so if there are questions at the end of my presentation.

In March of 2005, the USEPA issued the Clean Air Mercury Rule, cleverly dubbed CAMR, which established provisions for regulating mercury emissions from coal-fired electric generating units. Under the CAMR provisions, a nationwide mercury emissions cap was set for new and existing units. Each state receives an annual budget for

mercury emissions and is allowed to develop a program that provides for the distribution of the mercury allowances, with the overarching requirement that the states budget can not be exceeded. This in turn ensures that the national cap is not exceeded.

Under the CAMR provisions a state has three options for developing a program that ensures that it can meet its CAMR budget. The first option is to join an EPA administered emissions trading program in which the state must follow the mercury allowance distribution methodology prescribed by EPA. The second is by joining that same EPA administered program but developing a state specific mercury allowance allocation methodology. The third option is to develop an overall program that demonstrates that the mercury emissions will not exceed the state budget for each year. After several meetings with the affected stakeholders, it was determined that the best option for Nevada was to utilize the second option and modify only the mercury allocation methodology portion of the federal rule and structure it to address the unique needs of the State. In doing so, we have dubbed the proposed program for Nevada, "Nevada CAMR". This was done so that it was not to be confused with the "Federal CAMR" program. Under the federal provisions, the agency must develop a regulatory program and submit a State Plan to EPA in accordance with the CAMR rule requirements by November 17th of this year. This regulatory package constitutes the basis for our State Plan.

In addition to meeting the established mercury budget in the federal program, a major objective of the proposed "Nevada CAMR" program is to encourage additional mercury reductions from the power industry in Nevada by promoting the installation of state of the art mercury controls and consideration of cleaner coal combustion technologies such as gasification, at new and existing units. We believe that this is consistent with the direction we are going in with other industry sectors that emit mercury as an air pollutant. It is also a major goal of ours to someday be able to permanently retire mercury allowances. To achieve these objectives, the agency has prepared provisions that require the permitting of applicable "Nevada CAMR" units and proposes to adopt mercury emissions budgets and deadlines as specified in the "Federal CAMR" rule, with a few exceptions to the allocation methodology. Before describing those exceptions, let me first describe the annual mercury allocation budgets for Nevada. Phase I of the annual allocation period begins in 2010 and runs through 2017. During this period Nevada will receive 570 pounds per year of mercury allocations. Phase II begins in 2018 and continues on into the future at which point Nevada will receive 224 pounds per year. So you can see that there is a pretty significant drop in mercury allocations beginning in 2018.

Before getting into any more detail, I'd like to take a minute and get some terminology straight. First, when I refer to a "CAP" I'm referring to the national CAMR CAP set by EPA. In these provisions the State is not proposing to establish a new CAP. Rather, the State Plan must ensure compliance with the State mercury budget established under the federal CAMR Rule. This in turn ensures that the national mercury cap is achieved. We simply have to ensure that our provisions demonstrate that we can meet the established mercury budget for Nevada. Allocations and allowances can be a little

confusing as well. When I refer to allocations I'm referring to the States mercury allocations that we in turn distribute or allocate through the program. A mercury allowance is equal to one ounce and is the unit basis for compliance demonstration purposes. That is, at the end of the year, a source must demonstrate compliance by having secured allowances in an amount sufficient to cover their mercury emissions. I think that it is also important to note that this program differs significantly from the Acid Rain cap and trade program. One of the biggest differences is that under the CAMR program the State is being held to a mercury budget and is required to determine how best to allocate allowances, yet still not exceed the budget. This approach makes the allocations the State's rather than the regulated sources which is quite different from the Acid Rain program. Under Acid Rain, States are not held to a budget and for that matter are not really involved in the trading of emission allowances at all.

So with that let me briefly describe the derivations from the federal rule that we are proposing. Please keep in mind that the changes from the federal rule are only in the allocation distribution methodology. First, the "Nevada CAMR" program proposes that no mercury allowances be allocated to a unit which has been permanently retired or has allowed its permit to expire. The federal rule does not prohibit allocating allowances to retired units. With the shut down of the Mojave Plant, we did not see any benefit to the State for providing allowances to a facility that is not operating. We believe that those allowances would simply leave the State and be used elsewhere. The second change we are proposing has to do with the timing of the initial allowance allocations. During the initial period, states must submit their initial allowance allocations to EPA. The federal rule proposes a five year period from 2010 through 2014. The Nevada program proposes to submit allowance allocations for the control periods 2010 through 2012. We are proposing a shorter period as we believe that more information regarding units' actual mercury emissions will be generated over the next few years and we don't want to be locked into a prescribed amount of allocations for more than the minimum required three year period. This also relates to our allocation methodology, which is the third change that we are proposing. Instead of maintaining a single mercury allocation account, we are proposing to maintain four distinct allocation accounts.

This is really the key to being able to provide the mercury reduction incentives that we hope to achieve from this program. So as proposed we would be taking the annual State allocations, the 570 and 224 pounds, that I mentioned earlier, and distributing them into four accounts. The first account is what we are calling the "Existing Source" account. This account will be established to provide existing units with their annual mercury allowances. However, the twist here is that instead of using EPA's method that would allocate all of Nevada's allowances to the existing units, we are proposing to provide them with an amount equal to what they actually emit. This approach makes allocations available for the other accounts and ensures that extra allowances are not simply leaving the State. The second account is the "New Unit" account. This account will provide mercury allowances for new units for three years. Once a new unit has passed the three year timeframe it is considered an existing unit and would be eligible for allowances under the Existing unit account. This differs from the federal allocation method as new units under that rule must go to the national market and obtain

allowances. Again, under the Nevada CAMR program the distribution of allowances for new units would be based on the units' actual emissions. You can really begin to see here that we are doing our best to not penalize units but also to ensure that the State maintains control over all mercury allowances not actually needed by the sources. Thus, no additional mercury allowances are provided at this stage.

So you are probably asking, where is the incentive to reduce mercury if the State is going to provide exactly what a source emits? The incentive comes by way of the third allocation account which is called the "LEU/IGCC" account. That stands for low emitting unit and integrated gasification combined cycle combustion technology. Simply put, this is the low mercury emissions account. This account establishes additional mercury allowances for existing or new units with very low mercury emissions. Unlike the previous allowances that I described, allowances awarded through this allocation account are ones that a source can elect to bank or trade depending upon their preference. As I said earlier, the other accounts are designed to cover the amount of mercury emitted. No more. No less. This account provides additional allowances over and beyond the other accounts, with which the owner or operator can elect to do what ever they wish. Uses may include using allowances for other units that a company may own in other states, or banking allowances for later use. A source may also elect to sell the allowances on the open market. Therein lies the incentive.

In order to define the level at which a unit qualifies for this low emitting category, we have developed a series of emission rates that define a units' eligibility. This table is contained in Section 40 of the proposed provisions, which is on page 21 of your packet. As you can see we have developed two levels of criteria and the associated emission rates. The Level II criteria were derived from EPA's early attempts at developing New Source Performance Standards. The criteria will be used to define what we've internally defined as a "Low Emitting Unit". We believe that some of our existing units may be able to achieve these levels because of co-benefits from existing pollution control technology and through the purchase of low-mercury coals. New units will, at a minimum, be installing pollution controls that will meet the NSPS standards. That combined with the low mercury coals that we are seeing most applicants designing their processes for, should result in new units easily qualifying for this category. Level I is what we internally are calling the "ultra-low mercury emitting unit" levels. With the work that we've done most recently regarding new coal fired boilers, we believe that the levels that we have set here are achievable and really establish the next generation of mercury emissions levels from more conventional coal fired units. Also, to ensure that the control technology and these emission rates are maintained at appropriate levels, the regulations contain a re-evaluation criteria of the emission levels for each of the first three years of the program, then on a 3-year basis thereafter. This will ensure that the levels correspond to the amount of mercury reduction available as technology improves. Any changes in these emission rates would come back to the Commission as revisions to these rules. Again, this is where the incentive is based for reducing mercury emissions. I should clarify here that these emission levels are annual levels that must be achieved on a 12-month rolling period.

The last allocation account is called the "Special Account". This account has been established such that the State can manage and distribute allowances. As I've described so far, the first two accounts are designed to cover the actual emissions of mercury from sources. The "LEU/IGCC" account is the incentive account. To effectively manage and fund these accounts, we are proposing the "Special Account". Based on the information and the projections that we have made to date, we anticipate that this account will be funded such that we will be able to continue to adequately allocate allowances for the other three accounts, auction allowances on the national market, the funds from which would be used to support the program, and most importantly, be able to bank and/or retire mercury allowances from the program as a whole. You can see this as described in Section 41 on page 24 of your packet.

Currently our best estimates for initially funding the three accounts are as follows: The "Existing Unit Account" would start with 100 pounds, the "New Unit Account" would have 50 pounds, the "LEU/IGCC Account" would have 200 and the "Special Account" would have 220. This type of distribution would be used to get the program started and is based on the best information and forecasting that we can perform to date.

Based on our most current evaluations, it appears that Nevada will be provided a generous amount of annual mercury allowances when compared to what we believe sources in the State will emit. Our first priority is to ensure that the other mercury allocation accounts are funded accordingly, and that the incentives developed are realized. However, we also anticipate that there will be extra allowances, at least during the initial few years of the program. Since the allowances are, by federal rule, the State's, we believe that it is appropriate for us to manage them as part of the air quality program.

As with many of the newer federal air quality programs, there seems to be a shift towards cap and trade programs like the one I've described here. However, the funding for these programs is not something that comes with the mandate. Therefore, we are faced with having to increase fees to fulfill the regulatory mandate. Since the federal focus for establishing air quality standards seems to be diversifying through these types of programs, we are looking for opportunities to diversify the mechanisms for funding the air program as well. Our future goal is to revise the Air Quality Statutes to allow the agency to provide revenue through mechanisms like this program where the proceeds from auctioned allowances would be put back into the air quality fund. We currently have a BDR in that proposes this change, and I believe Leo plans to discuss this in more detail in his briefing to you later today. Regardless, we see that this may be a way to partially support the air program without just increasing fees to the stationary sources. Likewise, we are very optimistic that we will also be able to retire a number of these allowances, such that mercury reductions beyond what our incentive program strives for are realized. That being said, specific amounts of allocations and their relative distribution within this account have not been defined. So much of this program is yet unknown, the fact that we are going to be dealing with a statutory change, the whole State Plan approval process by EPA, the solvency of the national market being in question, and so on, that we simply could not see spending the time now to describe

these distributions in detail. Therefore, we plan to come back to the Commission sometime before the 2010 implementation date once again when more of the details of this portion of the program are better understood. At that time we will be better versed in describing the distribution of allocations from this account.

In the mean time, fees for this program have been proposed and can be found in Section 42 which is near the middle of page 24 of your packet. This fee schedule is pretty simple. We have done our best to evaluate what type of impact this program will have on the air program and determined that we will need to support two additional engineers and their related program costs. Fees are required for permit applications from all affected units at a cost of \$2,000 per application for an operating permit to construct. Annual fees are very similar to the Nevada MACT program, the first year of the program the annual fees are based on dividing \$300,000 by the total number of affected units. The \$300,000 reflects anticipated first year program costs. Each year thereafter, the same approach is used only that the total dollar amount is \$250,000. Assuming that we can achieve the program changes necessary to allow us to begin to fund the program from auctioned allowances, we would propose at that time to begin to adjust these fees by reducing the annual dollar amount by the amount of revenue generated from the auctioning of allowances. Again, that would be a change that we would bring to the Commission once all of the other hurdles have been crossed.

I'd like to mention that when EPA develops these "Cap and Trade" programs that it puts a tremendous burden on states to develop and implement them as states needs don't always line up well with what many perceive as national issues. That being said, I would like the Commission to understand that we have done our very best to try to develop a program within the criteria that the federal rule provides and with an understanding of what information we have available to us at this point in time. Again, as information becomes available and as things progress it is inevitable that we will be back in front of you to make some changes as this program gets underway.

As far as process, and comments that we received, I think I mentioned that we had several stakeholders meetings in developing these provisions. Along with the affected Nevada utilities, we have done our best to try to involve EPA Region IX and the Clean Air Markets Division folks from EPA Headquarters. A significant amount of dialog and written suggestions were provided to get us to where we are at with the proposed rule today. We also held one workshop here in Reno on August 10th which was fairly well attended. While there was much discussion of the mechanics of the program, no adverse comment was noted. I will mention that we did receive one letter of comment from Salt River Project which is an electric utility based out of Arizona. There specific issue had to do with the proposed rule retaining many of the allowances that could otherwise be available for the national market. SRP encouraged the State to make allowance allocations available for sale from the state's "Special Account" to interconnected western utilities at a minimum. We discussed their request with them and described that allowances generated through the incentive account and the "Special Account" would be available for auction on the national market, but that we felt that we could not legally prescribe to whom the allowances should be made available

to. I will also mention that EPA has taken a particular interest in our methodology that we are proposing for allocating allowances based on a units actual emissions. EPA has concerns with the way we are proposing to "true-up" the allowances with a source before the close of the control period. We are continuing to work through these issues but again I have to say that once EPA reviews our State Plan we may need to come back and revise certain portions in order to have a completely approvable Plan.

As with many of our proposed regulation packages, we try our best to coordinate comments and working drafts with the LCB. Unfortunately, LCB doesn't always see the way we prefer to have our rules written as the appropriate way to do so. With that, the copy that you have before you has a few minor modifications that I would like to propose to the Commission as changes to the proposed rule. These changes are consistent with those noted in your versions of Petition R162-06. The first change is near the top of page 21, in Section 40. We are proposing to add the language "during the applicable control period" at the end of subsection 2 so that that subsection reads more clearly. On page 22, again as part of Section 40, we would like to change the lead in to subsection 3. Here we would suggest striking the month "March", and revising it to read "On or before 15 business days prior to June 1 of the year following the applicable control period". A little further down on that same page in subsection 4 of Section 40, we would like to propose to strike the phrase "except as otherwise provided in this subsection;" and have that sentence start with If sufficient mercury allowances are not available... We don't think there are any exceptions in the subsection. Under subsection 5, we would propose the same change. Strike "except as otherwise provided in this subsection;" on the next page near the top, under Section 41, subsection 1, we propose to correct the range of sections from 36 to 39 to 37 to 40. A little further down the page in Section 42, subsection 1, we propose to change the reference to section 30 to section 28. Two final changes; on the top of page 28, Section 46, subsection 4.d. We would like to include part 60.4120 to 60.4142 in this adoption by reference section. The last change is on page 34, Section 48, in the lead in to this section we would like to correct the reference of 32 and make it Section 31.

In summary, the proposed provisions that you have in front of you are intended to fulfill EPA's federal CAMR requirements. They do so by developing a permitting program that largely mimics the federal permitting requirements but provides for a unique approach for the State's mercury allocation methodology. The provisions provide incentives for sources to reduce mercury emissions beyond those established by EPA and with good results we anticipate being able to permanently retire mercury allowances.

With that, I'd be happy to try to answer any questions you may have.

(END OF PREPARED REMARKS)

Commissioner Sponer noted that in the regulation the total state budget (in pounds) for 2010 was 570 and asked if we know how much we are using now?

Mr. Elges said "No," and that it was one of the difficulties of the federal requirement that states are being asked to plan this program not knowing, accurately, where they are right now. He said industry has been cooperative in setting up testing, however. Also, coal quality has a big effect on emissions—it can cause significant day-to-day variations. First indications are that actual emissions are different (lower) than allocations. In the background document on this regulation there is a discussion of utilizing the test data and Public utilities Commission's resource plan. So we are letting the numbers come in instead of trying to set them using insufficient data.

Commissioner Anderson asked about the possible leasing of allowances for a specific period, versus auctioning and selling. Mr. Elges said there was not a mechanism for doing so under the rule; Chairman Coyner said it was a one-year deal, a one-time use; Mr. Elges elaborated that their allocation methodology is based on getting real data on what plants are actually using before the control period begins; allocation to be based on a "true-up." Then if someone wants to exceed that, they are encouraged to get into the incentive portion, reduce emissions or put controls on.

Chairman Coyner again addressed the allowance of 570 pounds a year by 2010, saying that in response to Commissioner Sponer Mr. Elges had not named a figure—how did anyone conclude that Nevada's allowance should be 570? Mr. Elges noted that NDEP does have some idea of current emissions—Chairman Coyner asked for an estimate—Mr. Elges said he could put the information together but with many qualifications, because of the many variables. Select companies have put together accurate studies of their emissions, but the data are just not complete.

He stated that by the 2010 year, he expected to have the accurate data needed to administer the program, however. Chairman Coyner noted the nationwide figure of 76,000 (pounds), and wondered how the Nevada allocation was set at 570? Mr. Elges said they could provide the figures for other states, and noted that some states actually got zero. He said that the idea was if a new unit was built EPA wanted them to go to the national market and purchase allowances.

He added that, in summary, they think Nevada's numbers are high, compared to what they are emitting, or are going to emit. Chairman Coyner asked about how many sources there were in the state, and how 'source' was defined? Mr. Elges discussed 'sources' and 'units,' with each boiler being a 'source.' He listed seven units in Nevada. Chairman Coyner followed up on the 36-month baseline period mentioned on page three; Mr. Elges clarified that in effect if a new unit comes online, for the first 36 months it will be subsidized from the specific New Unit Account. New units have a 'break-in' period, and this is the rationale for that part of the regulation. The seven units currently in operation are taking measurements now as a 'baseline.' The period between 2009 and 2010 there

will be required continuous mercury monitoring devices—Nevada units are trying to be a year in advance.

Chairman Coyner asked for comments from the public, and there being none he asked the Commission for any further discussion or a motion.

Motion - Commissioner Dodgion moved that Commission approve R162-06, incorporating the handwritten edits included in the document submitted to the Commission. The motion was seconded by Commissioner Shull. Without further discussion a vote was taken, which was unanimously in favor.

Chairman Coyner now moved down the agenda to Item V, Briefing to the Commission by NDEP Administrator Leo Drozdoff.

Administrator Drozdoff, having previously presented some of his information, said he would give an update on the Nevada Mercury Control Program (NMCP) and that Deputy Administrator Colleen Cripps would also give a presentation.

He stated that from his vantage point, NMCP was working as anticipated and that he saw no reason to change direction. A lot of new information is coming in—staff has ramped up considerably—and to date, we have not found any reason for a change of direction. Deputy Administrator Cripps will give more specifics of what has come in, what the numbers are looking like. She will also talk about planned research.

Deputy Administrator Cripps now addressed the Commission, and the following are her prepared remarks:

(BEGIN PREPARED REMARKS BY COLLEEN CRIPPS)

Current Status of the NMCP

- ❖ Program became effective on May 4
- ❖ Questionnaires
 - Regulated facilities (17 facilities and 122 thermal units)
 - De minimus level could not be determined (so, it was est. at zero)
 - 2004 emissions data
 - over 90% of emissions from 5 VMRP facilities (4015 lbs total v. 3640 from 5 VMRP facilities)
 - 2005 VMRP data?
- ❖ Speciated source tests are being conducted (Brief description of the process)
- ❖ Permit application was developed and all Tier 1 sources have submitted Hg permit apps
 - Completeness period just ended and we are processing the permits
- ❖ The first round of fees was assessed
- ❖ Two additional staff are being hired (SEII and SEIII)